

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EAGLE VIEW TECHNOLOGIES, INC. and)	
PICTOMETRY INTERNATIONAL CORP.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 21-1852-RGA
)	
ROOFR INC.,)	
)	
Defendant.)	

**PLAINTIFFS’ MOTION TO STAY BRIEFING ON DEFENDANT’S MOTION FOR
JUDGMENT ON THE PLEADINGS**

Plaintiffs Eagle View Technologies, Inc. and Pictometry International Corp. (collectively, “Plaintiffs”) move to stay further briefing on defendant Roofr, Inc.’s (“Roofr’s”) Motion for Judgement on the Pleadings (D.I. 38, “12(c) Motion”), pending resolution of Plaintiffs’ earlier-filed Motion to Stay Pending *Inter Partes* Review Proceedings (D.I. 35 “Stay Motion”). In addition, due to the time-sensitive nature of the request, Plaintiffs request that briefing on this motion be expedited, such that Roofr’s response would be due no later than March 7, 2023, and Plaintiffs would not file a reply. In support of this motion, Plaintiffs state as follows:

1. On March 1, 2023, Plaintiffs moved to stay this action pending the resolution of the *Inter Partes* Review proceedings (“IPRs”) before the U.S. Patent and Trademark Office Trial and Appeal Board challenging claims of U.S. Patent Nos. 10,648,800, 9,183,538, and 8,170,840. D.I. 35 (“Asserted Patents”). That evening, Roofr filed a motion for Judgment on the Pleadings, challenging the remaining 60 claims (5 independent claims and 55 dependent claims) of the Asserted Patents under Section 101. D.I. 38. Plaintiffs have moved as quickly as they could to seek the relief requested herein, starting the morning after Roofr filed its 12(c) Motion.

2. As discussed in the opening brief and declaration supporting Plaintiffs' Stay Motion, Roofr itself indicated it planned to seek a stay pending its 12(c) Motion and to seek a further stay of its IPRs were instituted. *See* D.I. 37 at ¶ 2. Thus, the parties agree that the case should be stayed pending resolution of the IPRs, but dispute whether that stay should begin before or after the Court decides Roofr's 12(c) Motion. *See* D.I. 36 at 1, 4; D.I. 37 at ¶ 5. Plaintiffs maintain that it would be more efficient to brief and resolve Roofr's 12(c) Motion only after the IPR's are completed, if it remains necessary. Indeed, resolving Roofr's 12(c) Motion challenging all 60 remaining claims under Section 101 will require a substantial amount of work for the Court.

3. Unfortunately, under D. Del. LR 7.1.2(b), briefing on both motions will be completed at approximately the same time – with the reply on Plaintiff's Stay Motion due on March 22, 2023, and the reply on Roofr's 12(c) Motion due on March 23, 2023¹.

4. Proceeding upon this schedule will produce many of the same inefficiencies that Plaintiffs sought to avoid by staying the case – namely the need to brief a motion for judgment on the pleadings that may ultimately become moot.

5. Accordingly, Plaintiffs respectfully submit that there is good cause for the Court to grant this motion and entered the proposed order attached hereto as Ex. A., staying briefing on Roofr's 12(c) Motion pending the resolution of Plaintiffs' earlier-filed Stay Motion.

6. For the same reasons, Plaintiffs also request expedited briefing on this ancillary motion. Plaintiffs provided Defendant with a draft of the present motion on Friday, March 3, 2023 in connection with its effort to reach agreement with Defendant on the matters set forth herein pursuant to D. Del. LR 7.1.1. Given that this motion is not factually or legally complex, and that

¹ Roofr's motion was filed at 10:23 PM on March, 1, 2023. Thus, pursuant to section (F) of the Court's Revised Administrative Procedures Governing Filing and Service by Electronic Means, it is considered filed the following day, March 2, 2023.

Defendants have been aware of the contents of this Motion since Friday, March 3, 2023, Plaintiffs respectfully submit that Roofr could respond by Tuesday, March 7, 2023. Plaintiffs would not submit a reply.

7. Accordingly, Plaintiffs respectfully submit that there is good cause for the Court to grant this motion and enter the proposed order attached hereto as Ex. B, expediting briefing on this motion.

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